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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

8 GARY NERDIG and JOYCE NERDIG,) Case No.:
9 husband and wife,)
10 Plaintiffs,) **NOTICE OF REMOVAL OF CIVIL**
11 vs.) **ACTION**
12 ELECTRIC INSURANCE COMPANY, a)
13 Massachusetts corporation,) (Maricopa County Superior Court Case
14 Defendant.) No.: CV2017-007100)

15 Defendant Electric Insurance Company gives notice that it is removing this
16 action from Maricopa County Superior Court to the United States District Court for the
17 District of Arizona pursuant to Rule 28 of the U.S.C. §§ 1332, 1441 and 1446 for the
18 following reasons:
19

20 A. **THIS COURT HAS DIVERSITY JURISDICTION PURSUANT TO**
21 **28 U.S.C. § 1332.**

22 1. **There is complete diversity among the legitimate parties.**

23 (a) Plaintiffs are residents and citizen of the state of Arizona. (Ex. 1,
24 p. 1, at ¶ 1, Plaintiffs' Complaint in Superior Court of Arizona, Maricopa County, Case
25 No. CV2017-007100).

1 (b) Defendant Electric Insurance Company (“Electric”) is a
2 Massachusetts corporation with its principal place of business in Beverly,
3 Massachusetts.

4 **2. The Amount in Controversy Exceeds \$75,000.**

5 The determination of diversity jurisdiction is made as of the time of removal. *St.*
6 *Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283 (1938); *see also Rogers v.*
7 *Wall-Mart Stores, Inc.* 230 F.3d 868, 871 (6th Cir. 2000). Included in the calculation of
8 the jurisdictional minimum are general damages, special damages, punitive damages,
9 and attorneys’ fees. *See Ansley v. Metropolitan Life Ins. Co.*, 215 F.R.D. 575 (D. Ariz.
10 2003); *see also Chabner v. United of Omaha Life Ins. Co.*, 225 F.3d 1042, 1046 n.3 (9th
11 Cir. 1998); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir. 1998).
12 Electric Insurance Company was served and there is complete diversity among the
13 parties.

14 Further, Plaintiffs allege that they are seeking at least \$250,000 in damages,
15 (see Ex. 1, Plaintiff’s Complaint at Page 11), Rule 28 of the U.S.C. § 1446(c)(2).
16 Therefore, the amount in controversy exceeds the \$75,000 jurisdictional amount
17 required for removal based on diversity as required by Rule 28 of the U.S.C. § 1332(a).

18 **B. This Notice of Removal is Timely.**

19 Plaintiffs filed the Complaint on May 15, 2017 and served Electric through the
20 Arizona Department of Insurance on June 1, 2017. This Notice of Removal, therefore,
21 has been timely filed within 30 days of that date. *See* 28 U.S.C. § 1446(b).

C. Electric has attached copies of the original Complaint, Certificate of Arbitration, and Summons and has no other court documents in its possession (*see* Ex. 1, 2, and 3, respectively).

D. Electric has concurrently filed a copy of this notice with the Arizona Superior Court.

E. Electric has served upon Plaintiffs a copy of this notice.

Dated this 15th day of June, 2017.

ELARDO, BRAGG & ROSSI, P.C.

By /s/ Michael A. Rossi, Esq.

Michael A. Rossi, Esq.

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on June 15th, 2017, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

Milton W. Hathaway, Jr., Esq.

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